

REMARKS

Claims 4 and 31 have been newly canceled. Claims 13-26 and 34-41 were previously canceled. Claims 1-3, 5-12, 27-30, 32, 33 and 42 are now pending.

In ¶ 1 of the Office Action, approval of the proposed changes to Figure has been denied. In the earlier office action, the Examiner stated that "the first and second slits on the flap must be shown or the feature(s) canceled from the claim(s)". In response to that requirement, the Applicants submitted a proposed revised Figure 1 having two horizontal dashed lines indicating slits. Now the Examiner asserts that this is unacceptable because the illustrated slits have a length and an orientation not disclosed in the specification. The Applicants request that the Examiner explain how to draw a slit having no length and no orientation? The Applicants respectfully submit that it is not possible to draw a slit having no length and no orientation. Therefore the Examiner has manufactured an impossible bind for the Applicants by demanding that the slits be shown and then rejecting the illustrated slits because they have length and orientation.

The Applicants have tentatively canceled claims 4 and 31 directed to slits, but respectfully request that the dashed lines indicated in proposed amended Figure 1 be treated

as graphical symbols representing slits and not as an illustration of actual slits having a length as shown or a horizontal orientation. The rules regarding drawings clearly provide for the use of such graphical symbols. If the Examiner concurs, then Applicants request that the Replacement Sheet for Figure 1 previously submitted be now approved and that canceled claims 4 and 31 be reinstated by Examiner's Amendment.

In ¶ 4 of the Office Action, claims 1-12 and 27-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Arnell (US 5,851,071) in view of Price (US 6,213,641). The Applicants traverse this ground of rejection for the following reasons.

The Arnell patent discloses a bag having a zippered top and a zippered bottom. More specifically, a plastic top zipper 16 is designed "to allow the alternative and repeated sealing and unsealing of the top edges 20 of the front and rear walls 12 and 14." [Arnell, col. 3, lines 14-17] Arnell defines "zipper" to mean "those plastic bag sealing devices generally known in the art having a longitudinal tongue disposed on one plastic edge sized and dimensioned to mate with an opposed longitudinal groove disposed on an opposing edge." [Arnell, col. 3, lines 18-22] The tongue can be alternately inserting and removed from the groove "without the

use of special tools". [Arnell, col. 3, lines 25-27]

The Arnell patent further discloses that the top edges 20 of the bag walls are preferably sealed along a perforated line such that the top edges can be manually unsealed without tools by tearing the top edges along that perforated line. [Arnell, col. 4, lines 43-50] It is noteworthy that Figure 1 of Arnell shows no details concerning the structure of the zippered bag top. The only disclosure concerning that structure is set forth at the beginning of this paragraph.

Thus, Arnell teaches that the walls at the top of the bag are sealed together and a tear line is formed. There is no disclosure or suggestion that the top edges of the front and rear walls are attached to the two sides of the zipper without those top edges being joined. Consequently, Arnell plainly teaches away from Applicants' bag top structure in which the marginal top portions of the front and rear walls are respectively sealed to the backs of the strips of a string zipper, without those marginal top portions being sealed to each other.

Furthermore, because Arnell teaches that the top edges of the front and rear bag walls are sealed together, it would not be obvious to incorporate the slider of Price because it is not possible to insert a slider on a sealed

zippered bag mouth when the mouth walls are sealed together. The presence of the sealed top marginal portions above the zipper would certainly interfere with operation of the slider, even if the sealed mouth of the bag were torn open. The Applicants respectfully submit that it would not be obvious to insert a slider onto a zipper when the zipper is enclosed by the sealed top edges of the front and rear bag walls.

Furthermore, Arnell teaches that the zipper installed in the top of the bag can be opened "without the use of special tools", i.e., without the use of a slider. Thus Arnell teaches away from using a slider, making it unobvious to incorporate the slider of Price on the zippered top of Arnell's bag.

Furthermore, the Applicants also traverse the Examiner's assertion that Figure 5 of the Price patent "depicts a flangeless, reclosable zipper having a slider". Items 11 and 12 shown in Figure 5 of Price are bag walls shown integrally formed with the closure profiles of reclosable fastener 14. Therefore, to the extent that the integrally zipper strips and bag walls can be deemed a "zipper", that zipper is of the flanged variety because the bag walls are structurally analogous (yet longer) to flanges of the type used to attached zipper strips to bag walls. A person of ordinary skill in the art would not consider a zipper strip integrally connected to a bag wall to be a flangeless zipper

strip.


Since Price does not disclose a flangeless zipper, it also does not disclose or suggest a slider-operated flangeless zipper. Accordingly, nothing in Price would suggest that the slider of Price could be inserted onto the flangeless zipper of Arnell.

In summary, Arnell teaches away from installing a slider on his flangeless zipper, while Price neither teaches nor suggests placing a slider on a flangeless zipper. Accordingly, the Applicants respectfully submit that a *prima facie* case for obviousness has not been made and that the obviousness rejection combining Arnell and Price should be withdrawn.

In view of the foregoing, the Applicants submit that this application is now in condition for allowance. Reconsideration of the application and allowance of claims 1-3, 5-12, 27-30, 32, 33 and 42 are hereby requested.

Respectfully submitted,

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Date


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